



UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20231

DEC 17 1993

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#4

In re Application of :  
Thomas F. Knight et al. :  
Serial No. 08/082,328 : DECISION ON PETITION  
Deposited: June 24, 1993 :  
Attorney Docket No. 7828-033-999 :

This is a decision on the petition filed September 7, 1993, requesting that the above-identified application be accorded a filing date of June 24, 1993.

The application was deposited on June 24, 1993. However, on July 28, 1993, Application Division mailed a "Notice" requiring a drawing of Figure 20C described in the specification and stating that the filing date would be the date of receipt of the omitted drawing. An oath or declaration signed by the first named inventor in compliance with 37 CFR 1.63 and the \$130.00 surcharge, if necessary, were also required.

In response, on September 7, 1993, the present petition was filed. Petitioners argue that the reference to Figure 20C on page 23 is a typographical error and that no drawing labeled Figure 20C was intended to be filed. The petition is accompanied by a preliminary amendment changing the reference to "Figs. 20A-C" on page 23 to read "Figs. A-B".

As set forth in MPEP 506, an application is considered incomplete, if it omits drawings which are described in the specification. Clearly, Figure 20C is described in the specification, but no drawing labeled "Fig. 20C" was submitted. Therefore, the application, as deposited, is prima facie incomplete in the absence of that figure. While the petition suggests that the reference to Figure 20C is a typographical error, the petition was not accompanied by a supplemental oath or declaration by the inventors as required by MPEP 608.02 at page 600-52.

At present, the petition is dismissed. However, this decision is made without prejudice to reconsideration upon the filing of a request therefor. If the inventors agree that the reference to Figure 20C was a typographical error and that Figure 20C is unnecessary for an understanding of their invention, the application may be accorded a filing date of June 24, 1993, upon the filing of a request for reconsideration, accompanied by a supplemental oath or declaration by the inventors stating that their invention is adequately disclosed in, and their wish to rely on, the application as thus amended without a Figure 20C, and the references thereto in the specification, for purposes of an original disclosure and filing date.

Alternatively, if the applicants think a drawing of Figure 20C is necessary for an understanding of their invention, the drawing must be filed accompanied by a supplemental oath or declaration by the inventors stating that the drawing accurately illustrates and is a part of their invention. In this case, the filing date of the application will be the date of receipt of the drawing of Figure 20C.

A request for reconsideration (no further petition fee is required) as outlined above or the drawing of Figure 20C and the supplemental oath or declaration referring to the drawing, must be filed within TWO MONTHS of the date of this decision in order to be considered timely. See 37 CFR 1.181(f). Failure to file a timely response will result in the return of the application to Application Division for processing as an incomplete application under 37 CFR 1.53(c). The response should be directed to the attention of the Office of the Assistant Commissioner for Patents, Crystal Park Building 2, Room 919, Washington, D.C. 20231.

Receipt is acknowledged of the declaration, assignment and surcharge filed on September 7, 1993.



John F. Gonzales  
Special Program Examiner  
Office of the Assistant Commissioner for Patents

JFG